



Phone: 541-682-5377
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Meeting Location:
Sloat Room – Atrium Building
99 West 10th Avenue

The Eugene Hearings Official welcomes your interest in these agenda items. Feel free to come and go as you please at any of the meetings. This meeting location is wheelchair-accessible. For the hearing impaired, FM assistive-listening devices are available or an interpreter can be provided with 48 hours notice. To arrange for these services, contact the Planning Division at (541)682-5481.

WEDNESDAY, January 22, 2014
(5:00 p.m.)

I. PUBLIC HEARING ON A ZONE CHANGE REQUEST

Pennington Family Trust (Z 13-13)

Assessors Map: 17-04-14-32 **Tax Lot:** 3800

Location: South side of Maxwell Road, between Maxwell Connector and North Park Avenue

Request: Zone change from R-1/WR Low Density Residential with Water Resource overlay and C-1 Neighborhood Commercial with Water Resource overlay to a combination of R-2/C-1/GO/WR Medium Density Residential, Neighborhood Commercial and General Office with Water Resource overlay

Applicant: Pennington Family Trust

Applicant's Representative: Rick Satre, Schirmer Satre Group

Lead City Staff: Steve Ochs, Associate Planner
Telephone: (541) 682-5453
E-mail: steve.p.ochs@ci.eugene.or.us

Public Hearing Format:

1. Staff introduction/presentation
2. Public testimony from applicant and others in support of application.
3. Comments or questions from interested persons who neither are proponents nor opponents of the proposal.
4. Public testimony from those in opposition to application.
5. Staff response to testimony.
6. Questions from Hearings Official.
7. Rebuttal testimony from applicant.
8. Closing of public hearing.

The Hearings Official will not make a decision at this hearing. The Eugene Code requires that a written decision must be made within 15 days of close of the public comment period. To be notified of the Hearings Official's decision, fill out a request form at the public hearing or contact the lead City staff as noted above. The decision will also be posted at www.eugene-or.us/hearingsofficial.



ZONE CHANGE STAFF REPORT

Application File Name (Numbers):

Pennington Family Trust (Z 13-13)

Applicant's Request:

To rezone a property from R-1 Low-Density Residential and C-1 Neighborhood Commercial to combination of R-2 Medium-Density Residential, C-1 Neighborhood Commercial and GO General Office while retaining the /WR Water Resource overlay zone.

Subject Property/Location:

17.55 acres located south of Maxwell Road between North Park and the Maxwell Connector on Tax Lot 3800 of Tax Lot 4800 of Assessor's Map 17-04-14-32.

Relevant Dates:

Zone Change application submitted on November 6, 2013; application deemed complete on December 3, 2013; public hearing scheduled for January 22, 2014.

Applicant's Representative:

Richard Satre, Schirmer Satre Group (541) 686-4540

Lead City Staff:

Steve Ochs, Associate Planner, Eugene Planning Division, Phone: (541) 682-5453.

Background and Present Request

The subject request is to rezone a vacant property consisting of approximately 17.55 acres located south of Maxwell Road between North Park Avenue and the Maxwell Connector, from R-1 Low-Density Residential and C-1 Neighborhood Commercial, to combination of R-2 Medium-Density Residential, C-1 Neighborhood Commercial and GO General Office while retaining the /WR Water Resource overlay zone. The proposed R-2 zoning will be applied to the southern portion the site (south of Howard Avenue to the east) while the middle portion is proposed as GO General Office and the portion near the Maxwell Road/Maxwell Connector intersection is proposed as C-1 Neighborhood Commercial, as shown on Sheet L2.0 of applicant's materials.

The surrounding properties include a parcel located on the southwest corner of Maxwell Road that is zoned C-2 Community Commercial and is partially developed with businesses. To the west across the Maxwell Connector, property is zoned R-1 Low Density Residential and developed with a church. To the north across Maxwell Road is a small area of C-2 Community Commercial zoned land that is developed with businesses surrounded by developed single family residential areas that are zoned R-1 Low Density Residential. To the east across North Park Avenue, the area is developed with single family residential areas that are zoned R-1 Low Density Residential and Kelly Middle School which is on PL Public Land zoning. To the south is a City Park area and partially developed R-2 Medium Density zoned land. Further information regarding the site is provided in the applicant's materials and a vicinity map is provided as Attachment A.

The Eugene Code (EC) requires City staff to prepare a written report concerning the subject land use applications. In accordance with the Type III land use application procedures at EC 9.7320, the staff report is made available seven days prior to the public hearing, to allow citizens an opportunity to review the staff analysis of the application. The staff report provides only preliminary information and recommendations. The Hearings Official will consider additional public testimony and other materials presented at the public hearing before making a decision on the application. Pursuant to EC 9.7330, the Hearings Official's written decision on the application is made within 15 days from the close of the public record, following the public hearing. The quasi-judicial hearing procedures applicable to this request are described at EC 9.7065 through EC 9.7095.

Referrals/Public Notice

This zone change application was deemed complete on December 3, 2013. Planning staff provided information concerning the application to other appropriate City departments, and the affected neighborhood groups (River Road Community Organization) on December 10, 2013. Staff also mailed notice of the proposed zone change to the Oregon Department of Land Conservation and Development (DLCD) on December 10, 2013.

On December 19, 2013, staff mailed public notice of the proposed zone change and the hearing date to owners and occupants within 500 feet of the subject property. As of the date of this report, no testimony has been received.

Staff Analysis

The Eugene Code, EC 9.7330 and 9.8865, requires the Hearings Official to review an application for a zone change and consider pertinent evidence and testimony as to whether the proposed change is consistent with the criteria required for approval, shown below in **bold** typeface.

EC 9.8865(1): The proposed zone change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

The Metro Plan diagram shows the north portion of the area of request as designated for commercial and the south portion as designated for medium density residential. The applicant is proposing C-1 Neighborhood Commercial and GO General Office zoning in the area designated for commercial and R-2 Medium Density in the portion designated for medium density. As noted by the applicant the R-2 zone implements the medium density designation.

In regards to the commercial designation, the Metro Plan notes on page II-G-4 that the commercial diagram designation is intended to depict only Major Retail Centers and Community Commercial Centers. The requested GO General Office zoning fits within the Community Commercial Center category provided in the Metro Plan, and is defined in the Eugene Code as providing a compatible mix of office and residential development in transitional locations between residential and commercial uses. Staff finds that the GO zone is a good fit for the subject property because of its location between commercial development to the north and the residential uses to the south, and is consistent with the Commercial designation for the subject property.

In regards to the C-1 Neighborhood Commercial request, the Metro Plan (page II-G-4) notes that Neighborhood Commercial facilities are not shown on the Metro Plan. The C-1 zone is intended to be more of a “floating zone” which can be applied to sites which are planned for non-commercial use, such as residential. Proposing the C-1 zone on an area that is designated for commercial is not typical, as the C-1 zone allows fewer commercial uses than the C-2 Community Commercial zone. Nonetheless, the C-1 zone is listed as a commercial zone and nothing precludes it from being sited on a commercially designated area.

Since the C-1 zone is typically applied in places that are not already designated for commercial siting requirements have been included in the code at EC 9.2150, specific to the C-1 zone. While these siting requirements are intended to site C-1 zones in “non-commercial areas” these siting requirements are met, and addressed below at EC 9.8865(4) and incorporated herein by reference.

Additionally, text accompanying the Metro Plan diagram explains that the plan designation for individual parcels requires further interpretation by referring to adopted area refinement plans and other relevant planning documents. The applicable refinement plan is the River Road – Santa Clara Urban Facilities Plan (RRSC Plan), which is discussed in more detail in the following section. The (RRSC Plan) contains an adopted plan diagram and supporting text and policies that further informs the proper zoning and appears to support the proposal for C-1 zoning on the commercially designated area.

Staff finds that policies in the Metro Plan do not serve as mandatory approval criteria for the proposed zone change, but several policies do provide additional context and general support for the request and warrant further discussion.

Residential Land Use and Housing Element

A.2 Residentially designated land within the UGB should be zoned consistent with the Metro Plan and applicable plans and policies; however, existing agricultural zoning may be continued within the area between the city limits and the UGB until rezoned for urban uses.

A.9 Establish density ranges in local zoning and development regulations that are consistent with the broad density categories of this plan.

Medium density: Over 10 through 20 dwelling units per gross acre (could translate to over 14.28 units per net acre through 28.56 units per net acre depending on each jurisdictions implementation measures and land use and development codes)

Consistent with Policies A.2 and A.9 the applicant is requesting the City's R-2 Medium-Density Residential zone on a portion of the property which implements, and is consistent with, the medium-density residential land use designation for the subject property.

A.10 Promote higher residential density inside the UGB that utilizes existing infrastructure, improves the efficiency of public services and facilities, and conserves rural resource lands outside the UGB.

A.11 Generally locate higher density residential development near employment or commercial services, in proximity to major transportation systems or within transportation-efficient nodes.

A.12 Coordinate higher density residential development with the provisions of adequate infrastructure and services, open space, and other urban amenities.

A.13 Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed in-fill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.

Policies A.10 through A.13 provide policy direction to the City to increase density in certain areas and to consider several factors, including the impact of these higher densities when doing so. The City Council has followed this policy guidance by adopting a refinement plan and zoning code that provide medium density (and other higher densities) in certain areas. The subject property includes these medium-density areas. Additionally, consistent with the policy direction, the subject area is located in an area with existing urban services and is in close proximity to open space the south, commercial areas to the north and employment centers at River Road to the east.

A.17 Provide opportunities for a full range of choice in housing type, density, size, cost, and location.

While no specific development is proposed as part of this application, consistent with this policy, the R-2 Medium Density zone and GO General Office zones allow for a wide variety of housing types including single family homes, apartments, condominium and townhouses which can provide opportunity for a full range of housing types.

A.23 Reduce impacts of higher density residential and mixed-use development on surrounding uses by considering site, landscape, and architectural design standards or guidelines in local zoning and development regulations.

Language in Policy A.23 regarding physical impacts of a development cannot fully be addressed through a zone change, as it primarily relates to the physical design of any future development proposal on the subject site. Consistent with these Metro Plan policies, the City of Eugene has adopted design standards for multi-family housing development projects that are intended to improve design quality. In this instance a mix neighborhood commercial, general office and medium density residential is proposed.

The applicant thoroughly addresses a number of Metro Plan policies on pages 8-12 of the written statement. To the extent these Metro Plan policies are applicable to this proposal those findings are incorporated herein by reference to confirm compliance with this criterion.

Based on the above findings, staff concludes that the proposed zone change is consistent with applicable provisions of the Metro Plan.

EC 9.8865(2): The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

The RRSC Plan is the adopted refinement plan applicable to this request. The property is also located within the RRSC Plan Maxwell/Park Avenue Subarea. The (RRSC Plan) land use diagram and subarea diagram designate the subject property for commercial on the north and medium density residential to the south. The proper zoning and location of these areas is further informed by the policies and text below.

Commercial and Industrial Land Use

Policy 2.0

Require site plan reviews for all new commercial and industrial development.

This policy requires site review for all new commercial development. The addition of the /SR overlay would ensure that site review will be required for new commercial development and application of the overlay would ensure consistency with this refinement plan policy prior to future

development. The addition of the /SR overlay is also consistent with prior zone change approvals for commercial properties in the River Road-Santa Clara area subject to these same policies.

The suggested action 2.1 following this policy suggests that the application of the site review is intended to ensure compatibility with surrounding residential neighborhoods. In this instance, the applicant is requesting the C-1 zoning which is not adjacent to any residential zone, and the GO general office zone which is intended as a transition zone adjacent to the medium density residential zoning. While the applicant does not address it, staff notes that the policy is mandatory in this instance and the addition of the /SR overlay on the two commercial zones (C-1 and GO) is therefore required to ensure consistency.

Policy 6.0

New neighborhood commercial uses shall be located away from River Road in locations that facilitate the provision of commercial facilities scaled to a residential area and that allow for dispersal of commercial uses throughout River Road Santa Clara.

The applicant's proposal is consistent with this policy in that the commercial area is dispersed and located away from River Road. This policy also suggests that a more neighborhood scale commercial development is appropriate for these locations. The applicant's proposal to provide a combination of C-1 Neighborhood Commercial and GO General Office zoning is consistent with this policy.

Policy 7.0

Ensure compatibility between neighborhood commercial developments and surrounding residential area by identifying and applying siting and development standards.

As noted above, in this instance the proposed neighborhood commercial element will be surrounded by right of way and other commercial zones i.e. GO zoning. C-1 siting standards are included in the code and are addressed below at EC 9.8865(4). Future neighborhood commercial uses will be subject to commercial development standards starting at EC 9.2170 at the time of building permit, consistent with this policy.

Land Use Regions and Subareas

e. Maxwell/Park Avenue Subarea

The subarea contains a description of the area as well as a land use diagram and accompanying recommendations (page 2-28). Consistent with the (RRSC Plan) land use diagram, the subarea diagram also designates the subject property for commercial on the north and medium density residential to the south. Additionally, the three recommendations below also appear relevant to the proposal. These recommendations help further inform the proper zoning (and location of zoning) but are not mandatory approval criteria.

- 2. Recommend development of medium-density housing, while maintaining natural features, for neighborhood park and open space through use of clustering and site review.*

The proposal includes zoning for medium-density housing while maintaining the /WR Water Resource overlay which provides setback and protective standards to ensure protection of the natural features as open space on the site. While park land owned by the City of Eugene is located just south of the site it is not part of the development site.

- 3. Concentrate medium-density development around the commercial node, with a transition to low-density, particularly at the northern and southern boundary of the subarea.*

Consistent with this recommendation the proposal implements the land use designations which include medium density zoning around the commercial zoning. This development is located in the middle of the subarea and does not abut low-density areas which are found further to the south.

- 5. Maintain current commercial designation to the north of the line which would be Howard Avenue if ever extended westerly. Only commercial development making unified use of five or more acres shall be allowed in the area.*

This recommendation helps define the boundary of the commercial area and medium density area. Consistent with this recommendation, the proposal provides medium density zoning south of Howard Avenue (if it were extended), and commercial zoning (GO) north of Howard Avenue. The commercial area proposed is over 9 acres, consistent with this policy.

Based on the findings above, with the addition of the /SR overlay on the C-1 and GO zoned areas, this criterion is met.

EC 9.8865(3): The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

Key urban facilities and services are defined in the Metro Plan as: wastewater service, stormwater service, transportation, water service, fire and emergency medical services, police protection, City-wide parks and recreation programs, electric service, land use controls, communication facilities, and public schools on a district-wide basis (see Metro Plan page V-3). As confirmed by referral comments from Public Works and Lane County staff which are included in the file, the minimum level of key urban facilities and services are currently available.

As confirmed in the recent annexation (see City File A 13-3) and referral comments included in the file, the proposed change can be served through the orderly extension of key urban

facilities and services including wastewater, stormwater and transportation facilities can be
Given the above findings this criterion is met.

EC 9.8865(4): The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in:

(a) EC 9.2150 Commercial Zone Siting Requirements.

The commercial zone siting requirements contain specific restrictions on the location of the C-1 Neighborhood Commercial zone which are addressed below. There are no siting requirements for the proposed R-2 or GO zoning. Staff also notes that the applicant proposes to retain the /WR overlay.

(1) C-1 Neighborhood Commercial.

- (a) New C-1 zones shall be located within convenient walking or bicycling distance of an adequate support population. For new C-1 areas between 4½ and 5 acres, an adequate support population is 4,000 people (existing or planned) within an area conveniently accessible to the site.**

The area proposed for C-1, Neighborhood commercial is about 1.5 acres. While no analysis of the support population is provided, the area surrounding the subject property is developed with medium density residential and single family residential areas to the north, south and east. Analysis by staff indicates that there are approximately 700 single family dwellings within a quarter mile of the site within convenient walking distance. The number of dwellings within convenient bicycling distance would be many more. The nearest commercial area to otherwise serve this area is over a mile away on River Road or on Highway 99.

It is important to note that C-1 is typically applied to sites which are planned for non-commercial use, such as residential. This standard attempts to ensure that the location in question has the supporting population to support commercial activity that otherwise, was not anticipated. In this case that determination has already been made when the site was designated as commercial. Presumably, the city council agreed that the surrounding population could support commercial uses in this area when they designated the site as commercial. Given these circumstances, staff concludes that the proposed C-1 zoning is consistent with this requirement.

Based on these findings, the C-1 zone appears to meet this requirement.

- (b) New C-1 areas larger than 1.5 acres shall be located on a collector or arterial street.**

The C-1 area is located on Maxwell Road which is classified as a minor arterial. This standard is met.

- (c) Existing neighborhood commercial areas shall not be allowed to expand to greater than 1.5 acres unless the development area site abuts a collector or arterial street.

The applicant is proposing just over 1.5 acres of new neighborhood commercial zoning on the corner of Maxwell Avenue and the Maxwell Connector. The proposal does not expand an existing neighborhood commercial area as the existing commercially zoned area is zoned C-2 Community Commercial. While this standard does not apply to new C-1 areas, even if it did, the new neighborhood commercial area abuts Maxwell Road which is a minor arterial. Based on the findings above, the proposal to locate C-1 Neighborhood Commercial, meets applicable siting requirements.

EC 9.8865(5): In cases where the NR zone is applied based on EC 9.2510(3), the property owner shall enter into a contractual arrangement with the City to ensure the area is maintained as a natural resource area for a minimum of 50 years.

The proposed zone change does not include the NR zone; this criterion does not apply.

Transportation Planning Rule

Staff finds that Goal 12 Transportation of the Statewide Planning Goals, adopted by the Land Conservation and Development Commission (DLCD), must be specifically addressed as part of the requested zone change and in the context of Oregon Administrative Rules, as follows. As adopted, OAR 660-012-0060(1) states:

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3),(9), or (10) of this rule.*

Staff finds that the subject zone change is governed by subsection (9), which reads as follows:

- (9) *Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.*

- (a) *The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the plan map:*

- (b) *The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and*

(c) The area subject to the amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660- 024-220(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

Staff confirms that the proposed R-2, C-1 and GO zoning for the property is consistent with the existing comprehensive plan designation as medium-density residential and commercial and that this designation was in effect at the time the acknowledged TSP was adopted (TransPlan 2002). When TransPlan was adopted in 2001, the subject property was designated medium-density residential and commercial and has remained unchanged. The subject property was not exempted from the TPR at the time of an urban growth boundary agreement. Thus, OAR 660-012-0060(9) is satisfied. Based on these findings, the proposed zone change does not significantly affect a transportation facility for purposes of the TPR and therefore complies with the TPR.

Staff Recommendation

Based on the available evidence, and consistent with the preceding findings, staff recommends that with the addition of the /SR site review overlay to the C-1 and GO portion, the Hearings Official approve the requested zone change to R-2 Medium-Density Residential, C-1 Neighborhood Commercial and GO General Office, while retaining the /WR Water Resource overlay.

Consistent with EC 9.7330, unless the applicant agrees to a longer time period, within 15 days following close of the public record, the Eugene Hearings Official shall approve, approve with conditions, or deny this application. The decision shall be based upon and be accompanied by findings that explain the criteria and standards considered relevant to the decision, stating the facts relied upon in rendering a decision and explaining the justification for the decision based upon the criteria, standards, and facts set forth. Notice of the written decision will be mailed in accordance with EC 9.7335. Within 12 days of the date the decision is mailed, it may be appealed to the Eugene Planning Commission as set forth in EC 9.7650 through EC 9.7685.

Attachments

Attachment A: Aerial Context Map

The entire application file is available for review at the Eugene Planning Division. The Hearings Official will receive a full set of the application materials for review prior to the public hearing. These materials will also be made available for review at the public hearing.

For More Information:

Please contact Steve Ochs, Associate Planner, City of Eugene Planning Division, at: (541) 682-5453; or by e-mail, at: steve.p.ochs@ci.eugene.or.us

Aerial Context Map for Pennington Zone Chang (Z 13-13)



Caution:
This map is based on imprecise
source data, subject to change,
and for general reference only.

